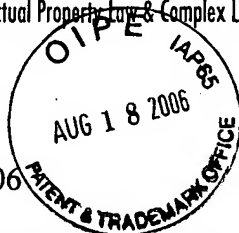




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April 25, 2006

BY CERTIFIED MAIL; RETURN RECEIPT REQUESTED

Mr. Ruben Hernandez
 ELEKTRO STREAMED TECHNOLOGIES, INC.
 5455 Wilshire Blvd., Suite 1900
 Los Angeles, California 90036

**Re: Patent Application Entitled
 METHOD AND APPARATUS FOR IN-STORE MEDIA
 ADVERTISING
 Application No.: 10/035,345; Filed December 28, 2001
 CPH Ref. E329:42090**

Dear Ruben:

Enclosed is a copy of an Office action in the above-referenced patent application. It has a statutory response period of **July 6, 2006**. The due date can be extended to as late as October 6, 2006 upon the payment of escalating extension fees. If no response is filed by **October 6, 2006**, the application will go abandoned and all rights will be lost.

We have not undertaken a study of this Office action and will not handle the preparation of a response on your behalf.

This is a formal notice that we are withdrawing from representing your company immediately in this case since you have been remiss in the payment of your outstanding bills and have not otherwise communicated with us. If you wish to keep this application alive, we strongly recommend that you hire another patent attorney.

Please give us a call if you have any questions.

Sincerely,

Daniel R. Kimbell

DRK/eaj
 Enclosure: Office action

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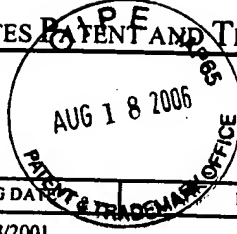
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DRK



APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,345	12/28/2001	Ruben Hernandez	42090/FLC/E329	1052

23363 7590 04/06/2006

CHRISTIE, PARKER & HALE, LLP
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EXAMINER
CHANG, SHIRLEY
ART UNIT
PAPER NUMBER

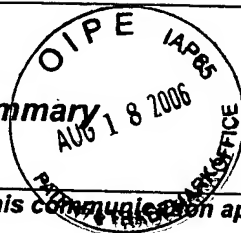
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CASE # 42090 ACTION 3 Mon OA
REMINDER _____ DUE DATE 7/6/06
DEADLINE 10/6/06

Christie, Parker & Hale, LLP DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary



Application No.

10/035,345

Applicant(s)

HERNANDEZ, RUBEN

Examiner

Shirley Chang

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claim(s) 1-10 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond (6698020).**

As to claims 1-3, 5-8,

A method for advertising using an advertising system operably coupled to a content server (fig. 4, el. 62, 66, 70) and a statistics server (fig. 4, el. 61; col. 9, lines 39-55) via a communications network, comprising: receiving by the advertising system (fig. 4, el. 60, 58) from the content server (fig. 4, el. 62, 66, 70) via the communications network (fig. 4, el. 64, 52) advertising content (fig. 4, el. 62) and an advertising content display schedule (fig. 4, 70; video switch is actuated at an appropriate time indicated by a triggering event delivered by advertisement trigger source; col. 8, lines 1-40); displaying by the advertising system (fig. 4, el. 58) the advertising content according to the advertising content display schedule (fig. 4, el. 70; video switch is actuated at an appropriate time indicated by a triggering event delivered by advertisement trigger source; col. 8, lines 12-54);

receiving by the advertising system viewer signals while displaying the advertising content (col. 9, lines 20-55; viewer actions are monitored during the display of the advertisement);

generating by the advertising system viewer information using the viewer signals and the advertising content display schedule (viewer responses to the advertisements are complied and reported; col. 9, lines 20-55); and

transmitting by the advertising system to the statistics server via the communications network (fig. 4, el. 60 to el. 61) the viewer information (viewer response information is collected, complied and stored, which is sent to a clearing house to be aggregated ;col. 9, lines 20-55).

As to claim 4,

receiving sales data (Advertisements are sales, since the sale of broadcast time to advertisers is a source of revenue of broadcasters (col. 1, lines 14-22). Data about the sales, or viewer responses, are received by the statistics aggregation) while displaying the advertising content (col. 9, lines 20-55; viewer actions are monitored during the display of the advertisement); and

generating sales information using the sales data and the advertising content display schedule (viewer responses to the advertisements are complied and reported; col. 9, lines 20-55).

As to claim 9,

the viewer signal further includes a directional component (viewer responses such as channel changes, requests for information, and feedback are monitored; col. 9, lines 21-55).

As to claim 10,

A networked media advertising system, comprising: a content server (fig. 4, el. 62, 66, 70; col. 8, lines 1-39);

a statistics server (fig. 4, el. 61; col. 9, lines 39-55);

an advertising system operably coupled to the content server and the statistics server via a communications network (fig. 4, el. 64, 52), the advertising system including:

an advertising controller (fig. 4, el. 60);

an advertising display device (fig. 4, el. 58) operably coupled to the advertising controller (fig. 4, el. 60); and

a viewer sensor (fig. 4, el. 60; ad insertion device monitors viewer actions) operably coupled to the advertising controller (col. 9, lines 23-55).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shirley Chang whose telephone number is (571) 272-8546. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SC


CHRISTOPHER GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Notice of References Cited

Application/Control No.

10/035,345

Applicant(s)/Patent Under
Reexamination
HERNANDEZ, RUBEN

Examiner

Shirley Chang

Art Unit

2614

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,698,020	02-2004	Zigmond et al.	725/34
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

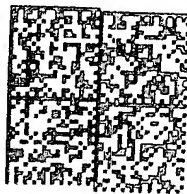
Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)

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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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1. Article Addressed to:

Mr. Ruben Hernandez
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5455 Wilshire Blvd., Suite 1900
Los Angeles, California 90036

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